

CHAPTER 46**(HB 128)**

AN ACT relating to sales and use taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.495 is amended to read as follows:

The taxes imposed by this chapter shall apply to resident, nonprofit educational, charitable, and religious institutions which have qualified for exemption from income taxation under Section 501(c)(3) of the Internal Revenue Code as follows:

- (1) Tax does not apply to sales of tangible personal property or services to such institutions provided the property or service is to be used solely within the educational, charitable, or religious function.
- (2) Tax does not apply to sales of food to students in school cafeterias or lunchrooms.
- (3) Tax does not apply to sales by school bookstores of textbooks, workbooks, and other course materials.
- (4) Tax does not apply to sales by nonprofit, school sponsored clubs and organizations, provided such sales do not include tickets for athletic events.
- (5) ***An institution shall be entitled to a refund equal to twenty-five percent (25%) of the tax collected on its sale of donated goods if the refund is used exclusively as reimbursement for capital construction costs of additional retail locations in this state, provided the institution:***
 - (a) ***Routinely sells donated items;***
 - (b) ***Provides job training and employment to individuals with workplace disadvantages and disabilities;***
 - (c) ***Spends at least seventy-five percent (75%) of its annual revenue on job training, job placement, or other related community services;***
 - (d) ***Submits a refund application to the cabinet within sixty (60) days after the new retail location opens for business; and***
 - (e) ***Provides records of capital construction costs for the new retail location and any other information the cabinet deems necessary to process the refund.***

The maximum refund allowed for any location shall not exceed one million dollars (\$1,000,000). As used in this subsection, "capital construction cost" means the cost of construction of any new facilities or the purchase and renovation of any existing facilities, but does not include the cost of real property other than real property designated as a brownfield site as defined in KRS 65.680(4).

- (6) ***Notwithstanding any other provision of law to the contrary, refunds under subsection (5) of this section shall be made directly to the institution. Interest shall not be allowed or paid on the refund. The cabinet may examine any refund within four (4) years from the date the refund application is received. Any overpayment shall be subject to the interest provisions of KRS 131.183 and the penalty provisions of KRS 131.180.***
- (7) All other sales made by nonprofit educational, charitable, and religious institutions are taxable and the tax may be passed on to the customer as provided in KRS 139.210.

Section 2. This Act takes effect August 1, 2005.

Approved March 11, 2005.